

## **APPENDIX 4**

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# Environmental and Construction Compliance Monitoring Plan

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**Environmental and Construction Compliance Monitoring Plan**  
**Alta East Wind Project**

Lead Agency:

United States Department of the Interior  
Bureau of Land Management

Environmental Impact Statement  
Case File Number: CACA- 52537

Alta East Wind Project  
Decision to Grant Right-of-Way

United States Department of the Interior, Bureau of Land Management  
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<b>LIST OF ACRONYMS AND ABBREVIATIONS</b>	
<b>Acronym/Abbreviation</b>	<b>Term</b>
AEWP	Alta East Wind Project
AWD	Alta Windpower Development
BLM	Bureau of Land Management
CD	compliance director
CDFW	California Department of Fish and Wildlife
CL	compliance lead
CM	compliance manager
ECCMP	Environmental and Construction Compliance Monitoring Plan
ECM	environmental compliance monitor
EI	environmental inspector
EPA	Environmental Protection Agency
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
GIS	geographic information system
I-	Interstate
MOA	Memorandum of Agreement
MW	megawatt
NEPA	National Environmental Policy Act
NTP	Notice to Proceed
POD	Plan of Development
ROD	Record of Decision
ROW	right-of-way
SCT	surface compliance technician
SPCC	Spill, Prevention, Control, and Countermeasure Plan
SWPPP	Stormwater Pollution Prevention Plan
USFWS	U.S. Fish and Wildlife Service
WEAP	Worker Environmental Awareness Program

## **1.0 INTRODUCTION**

### **1.1 Background**

The U.S. Bureau of Land Management (BLM) may issue a right-of-way (ROW) grant authorizing the construction, operation, maintenance, and decommissioning of the Alta East Wind Project (AEWP) to the applicant, Alta Windpower Development LLC (AWD), a wholly owned subsidiary of Terra Gen Power LLC. The ROW will be issued for a term of 30 years with a right of renewal in accordance with 43 CFR 2807.22. The ROW grant will allow AWD the right to use, occupy, and develop public lands to construct, operate, maintain, and decommission a wind energy facility with up to 97 wind turbines generating up to 291 megawatts (MW) of electricity in Kern County. The project site is located approximately 3 miles northwest of the unincorporated community of Mojave and 11 miles east of the City of Tehachapi in southeastern Kern County. The project is situated at the base of the Tehachapi Mountains in the Western Mojave Desert. Under the BLM's Selected Alternative, which is Alternative C in the Final Environment Impact Statement (FEIS), the project would be located on lands managed by the BLM and private lands regulated by Kern County.

BLM will have the primary oversight and regulatory authority over the AEWP's construction lifecycle in accordance with NEPA, with Kern County overseeing the implementation of local conditions stipulated in applicable permits issued for activities on private lands in accordance with the California Environmental Quality Act (CEQA).

The Council on Environmental Quality has established regulations for implementing the National Environmental Policy Act (NEPA) (40 Code of Federal Regulations [CFR] 1500–1508). NEPA requires mitigation monitoring in 40 CFR 1505.2(c), with additional specificity provided in the BLM NEPA Handbook (H-1790-1), Chapter 10 (Monitoring). BLM also served as the lead federal agency for Section 7 consultation under the Endangered Species Act, and Section 106 consultation under the National Historic Preservation Act for the AEWP.

### **1.2 Purpose**

The BLM requires holders of ROW grants to prepare and fund an environmental and construction compliance monitoring program and adhere to an environmental and construction compliance monitoring plan (ECCMP) developed by the BLM. The purpose of the ECCMP is to provide an on-the-ground approach to compliance during project development designed to facilitate successful implementation. This, in part, includes ensuring the developer complies with:

- Required mitigation approved in the Record of Decision (ROD), designed to minimize undue and unnecessary degradation to public lands, and offset impacts to the human, environmental, and cultural environment
- Implementation plans based on mitigation requirements
- Terms, conditions, and stipulations in the ROW grant

- Conditions in Notices to Proceed (NTPs)
- Approved methodologies and construction plans within the Plan of Development (POD), which mirror the action approved in the ROD.

### **1.3 Objectives**

The overall objective of the ECCMP is to clarify agency requirements and expectations of AWD and the BLM Compliance Monitoring Team during the pre-construction and construction phases of the AEWP. The following elements are included in the ECCMP to support this objective:

- A description of the roles and responsibilities of the Compliance Monitoring Team
- A definition of the decision-making authority for each role within the Compliance Monitoring Team
- The level of effort anticipated from the Compliance Monitoring Team in implementing this ECCMP
- Communication protocols among Compliance Monitoring Team members
- A description of the monitoring, reporting, and documentation requirements, and adaptive management processes during construction.

In order to ensure the ECCMP remains applicable to changing site-specific conditions throughout project development, the ECCMP is a dynamic plan and may be modified at any juncture of the AEWP's lifecycle. Modifications to the document may be requested by AWD, the BLM compliance director (CD), or the compliance manager (CM). Ultimate approval of any modifications to the plan will be made by the BLM Administrative Officer.

## **2.0 AUTHORITY OF THE ECCMP**

In addition to the BLM's administration of approved activities on public land, other local, state, and federal agencies have jurisdiction over resources or activities within the project limits and may issue permits containing conditions for these activities. Jurisdictional agencies' designated representatives may visit construction areas at any reasonable and safe time, and may require information regarding the status of compliance with permit conditions issued by their respective agencies. While these data requests will be satisfied by AWD and communicated to the BLM Compliance Monitoring Team, the team will be responsible for tracking implementation of and adherence to these conditions during the pre-construction and construction process in support of the BLM. It is expected that AWD will do its due diligence to ensure this documentation is provided to the BLM CD and CM in a timely fashion.

### **2.1 Federal**

The following federal documents may contain environmental mitigation requirements, stipulations, terms, conditions, and other measures requiring deliverables from AWD prior to, during, and post construction:

- 2013 ROD for the AEWP (lead agency, BLM), containing:
  - Project design features and mitigation
  - A Biological Opinion from the U.S. Fish and Wildlife Service (USFWS) developed in accordance with the Endangered Species Act (16 U.S.C. 1531–1544)
  - An Avian and Bat Protection Plan developed in accordance with the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act.
- Federal Land Policy and Management Act (FLPMA) ROW Grant (lead agency, BLM), containing:
  - Terms, conditions, and stipulations
  - Notices to Proceed, which may contain additional conditions
  - Construction procedures in the approved POD for the project.
- Determination of No Hazard to Air Navigation (Federal Aviation Administration)

### **2.2 State**

The following state permits and documents may contain environmental mitigation requirements, stipulations, terms, conditions, and other measures requiring deliverables from AWD prior to, during, and post construction:

- Section 1601 Streambed Alteration Agreement process under the California Fish and Game Code (lead agency, California Department of Fish and Wildlife (CDFW))



- Clean Water Act, Sections 401 and 402, Porter–Cologne Water Quality Control Act, California Water Code, Division 7. Water Quality 401 Certification, Stormwater Construction General Permit 99-08-DWQ and Stormwater Pollution Prevention Plan SWPPP), National Pollutant Discharge Elimination System General Permit, Waste Discharge Requirements (Lanhotan Regional Water Quality Control Board)

## **2.3 Local**

The following local permits may contain environmental mitigation requirements, stipulations, terms, conditions, and other measures requiring deliverables from AWD prior to, during, and post construction:

- Authority to Construct/Permit to Operate (Kern County Air Pollution Control District)
- Los Angeles Aqueduct Encroachment/Crossing Permit (Los Angeles Department of Water and Power)
- Kern County
  - Changes in Zone Classification (Discretionary)
  - Conditional Use Permit (Discretionary)
  - General Plan Amendment (Discretionary)
  - Public easement vacations (Discretionary; if deemed required)
  - Grading Permit (Ministerial)
  - Building, electrical, and well permits (Ministerial).
- Franchise Agreement (Discretionary; if deemed required).

### **3.0 ROLES AND RESPONSIBILITIES**

AWD will establish a Compliance Monitoring Team for the AEWP. The organization chart depicted in Figure 1 provides the organizational structure of the team. In general, the Compliance Monitoring Team will consist of BLM personnel; third-party contractor compliance personnel, hired by AWD but accountable to and directed by BLM; and AWD personnel. This section describes the roles, responsibilities, level of effort, and authority of key project personnel within the Compliance Monitoring Team with respect to the ECCMP.

#### **3.1 BLM Personnel**

The BLM's Compliance Monitoring Team will consist of the authorized officer (AO) and/or his/her designated project manager (PM) in charge of compliance.

##### ***3.1.1 BLM Authorized Officer***

The BLM AO will be the BLM Ridgecrest Field Office Manager with the administrative authority for the ROW grant issuance and authority for accepting and approving project-related changes. This may be the field office manager or his/her delegate.

##### ***3.1.2 BLM Project Manager***

The BLM PM is designated by the BLM AO as the point of contact for all compliance-related issues. The BLM PM is the primary point of contact at the BLM for the CM and provides unified agency direction to the BLM/AWD Compliance Team. The BLM PM will ensure, to the extent practicable, that information requiring agency review will be disseminated internally and that comments and direction are consolidated and presented to the Compliance Monitoring Team.

##### ***3.1.3 BLM Resource Specialists***

Various resource specialists may be involved with implementation of this project. They will assist the BLM PM and environmental monitors with evaluation of conditions and project status relative to mitigation requirements or other stipulations. The support staff will include archaeologists, biologists, geologists, and other specialists as required.

##### ***3.1.4 Surface Compliance Technician***

The surface compliance technician (SCT) will serve as the on-the-ground BLM person responsible for observing and reporting compliance with the terms and conditions of the BLM ROW authorization for all phases of project construction. The SCT will report to the BLM PM and his/her AO and will regularly collaborate with the CM and the AWD environmental inspectors (EIs). The SCT will report all issues/concerns noted along the ROW to the AWD EI and/or BLM environmental compliance monitors (ECMs) and/or CM.

## **3.2 Third-Party Compliance Contractor Personnel**

A third-party compliance contractor will be responsible for providing BLM third-party oversight and reporting services for the AWEPP. The third-party compliance contractor will conduct such monitoring and reporting as extension of staff to BLM. The third-party compliance contractor shall enter into a contractual agreement with AWD for third-party monitoring and reporting program services associated with implementing the ECCMP, and all necessary support activities.

The third-party compliance contractor will provide the expertise, staffing, and technical capabilities required for monitoring and reporting associated with a third-party compliance contractor program.

The third-party compliance contractor will not be responsible for implementation of the BLM terms, conditions, and stipulations in the ROW grant, the POD, and required mitigation as provided for in the ROD; these will be the responsibility of the ROW grant holder, AWD. Similarly, the third-party compliance contractor will not direct the day-to-day activities of the AWD personnel.

### **3.2.1 Compliance Director**

The CD will have the oversight of contracts, budget, and administrative processes, and may be consulted on major compliance issues with the CM. The CD may also facilitate the permit-to-construction transition process.

### **3.2.3 Compliance Manager**

The CM will be the primary point of contact position for BLM and AWD regarding all compliance-related issues (including variances) from an administrative perspective. The CM reports to the BLM AO and the BLM PM for compliance.

Specific responsibilities include but not limited to:

- Overseeing management of the ECCMP
- Participating in the pre-construction meeting
- Supervising the ECMPs' monitoring activities and schedules
- Providing guidance on and review of compliance issues
- Reviewing and processing variances, which may require NEPA support
- Facilitating weekly construction progress meetings and providing weekly status updates
- Managing project documentation with respect to compliance (reviewing AWD and BLM Compliance Monitoring Team reports, correspondence for the administrative record, etc.)
- Disseminating weekly reports
- Ensuring adherence to the Scope of Work and discussing all potential modifications with AWD.

### **3.2.4 Environmental Compliance Monitors**

The ECMs will serve as the on-the-ground personnel responsible for observing and reporting compliance with the terms and conditions of the BLM ROW authorization for all phases of project construction. The ECMs report to the CM, but collaborate with the AWD EIs on a daily basis.

#### **Responsibilities**

In general, the ECMs will be deployed on site to observe activities performed by AWD's EIs and construction and development crew and to ensure these activities meet the description outlined in the POD; the intent of approved mitigation; and the terms, conditions, and stipulations of the ROW grant.

Prior to the start of construction, the ECMs will become familiar with AWEPP's approved project design and the environmental compliance management program, participate in the preconstruction meeting, participate in the Worker Environmental Awareness Program (WEAP) on an as-needed basis, and receive additional training as needed from AWD personnel. The ECMs will become familiar with the roles and responsibilities of the AWEPP's immediate field team, environmental reporting responsibilities, and the chain of command.

Throughout construction, the ECMs will document AWD's compliance and/or non-compliance with the environmental requirements through use of approved forms. The ECMs will record observations, including digital photo documentation at each location visited. This process will ensure consistent and accurate reporting of site conditions at the time of inspection and will serve to record evolution of the site with respect to development. Each activity monitored will be assigned a compliance level.

The ECMs will regularly evaluate the effectiveness associated with environmental compliance monitoring in consultation with the CM and BLM PM to ensure the intent of the compliance plans are being adequately met. Designated environmentally sensitive areas (marked and/or flagged by the AWD EIs) will be regularly inspected to ensure protection of the resources.

The ECMs will review Level 1 Variances on site and may approve Level 1 Variance requests, as appropriate to their authority level, for implementation of limited variations from mitigation measures previously agreed to by AWD or stipulated by other agencies (see Section 8, Variances).

In order to ensure a collaborative approach to environmental compliance, the ECMs will maintain, at a minimum, contact with the AWD environmental staff and construction and development crew. This approach will allow AWD and the ECMs to exchange information on the status of construction and to discuss any significant construction events scheduled in the near future. The ECMs may inspect all construction activities with AWD construction monitors or independently.

## **Authority**

The ECMs on site will have the authority to halt any construction activity that has the potential to damage a sensitive resource. This could include conducting initial disturbance absent monitor presence; activity in non-compliance with a term, condition, or stipulation of a ROW grant; etc. In the event of potential non-compliance, the ECM will immediately notify the AWD EI and the CM. The AWD lead EI will initiate his/her approved chain of command system to initiate issue resolution.

## **Level of Effort**

The level of monitoring effort and staffing will be evaluated between the CD and CM in consultation with the BLM PM, with input from the ECMs throughout the project. The number of ECMs may be determined based on the specific activities during each construction phase.

### **3.3 AWD Compliance Personnel**

The AWD Compliance Monitoring Team will be responsible for development and implementation of the AWEPP's compliance program. The AWD Compliance Monitoring Team will report internally to AWD supervisors and will report to the CM and BLM, jointly.

In general, the AWD Compliance Monitoring Team will be responsible for communication and coordination with the applicable regulatory agencies and ensuring compliance with the various conditions and requirements of the full range of project permits and approvals. AWD will ensure excellent record keeping with respect to due diligence on mitigation (including plans, surveys, reports, keeping plans current) and distribution of those materials to the BLM Compliance Monitoring Team via electronic methods.

The AWD compliance representatives for the project are identified in the following sections.

#### **3.3.1 Compliance Lead**

The compliance lead (CL) will be responsible for providing the appropriate level of resources for successful implementation of the ECCMP. The CL directs the development and implementation of the preconstruction environmental planning, permitting, and compliance activities; the environmental inspection program; and environmental training. The CL will be the designated official responsible for high-level coordination and dispute resolution with respect to mitigation compliance and authorized terms and conditions of the ROW.

##### **3.3.1.1 Environmental Inspectors**

The EIs will be the on-the-ground compliance personnel responsible for implementing the compliance program mitigation dictated under the ROD, ROW grant, and NTP conditions for all phases of project construction. This includes resolution of all problem areas or activities found to be in non-compliance. A lead on-site EI will be designated for the project and will serve as the primary point of contact for the ECM on site. A designated biologist will be identified as part of the EI team and will be approved by the BLM per applicable mitigation measures and ROW stipulations.

## **4.0 COMMUNICATION**

As previously discussed, communication and collaboration is a critical component of a successful environmental compliance program and can promote a positive and efficient work environment. BLM expects AWD's CL and EIs to interact regularly with the BLM Compliance Monitoring Team and to maintain professional, responsive communications at all times. Similarly, it is expected that AWD representatives will coordinate closely with BLM's Compliance Monitoring Team to address and resolve issues in a timely manner. This section provides several tools/requirements for open and transparent communication throughout the project, and to facilitate efficient dissemination of project information about ongoing surveys and mitigation measures, construction activities, and planned or upcoming work.

### **4.1 Pre-construction Compliance Coordination**

In accordance with mitigation measures and ROW terms and conditions, AWD is required to perform a number of pre-construction activities, including but not limited to pre-construction biological surveys, submitting and obtaining permits for grading, and submitting and obtaining BLM approval of mitigation plans. The purpose of the pre-construction coordination process between AWD and the BLM Compliance Monitoring Team is to discuss submittal status, agency review and approval cycle, and pre-construction mitigation status (e.g., acquisition of mitigation lands). Additionally, the goal of the pre-construction process is to complete all required actions so the BLM and other agencies, as appropriate, can issue NTPs for each project component. The BLM Compliance Monitoring Team may be asked to review pre-construction plans to ensure the plans meet required federal, state, or local standards, as well as the intent of mitigation measures adopted in the ROD.

#### **4.1.1 Pre-construction Kickoff Meeting(s)**

A pre-construction meeting and/or several meetings will be held with the BLM, AWD compliance and construction team, the BLM Compliance Monitoring Team, and other agencies or parties as deemed appropriate by BLM. The pre-construction kickoff meeting will serve to outline agency expectations of the team, to refine the ECCMP if appropriate, to agree on the project's communication protocol and chain of command, and to further discuss the POD.

#### **4.1.2 Construction Meetings**

AWD will conduct field meetings as-needed with PMs, contractor supervisors and foremen, and AWD's environmental representatives to discuss work completed, work anticipated for the following period, and the implementation status of mitigation measures. The field meetings will also be a forum for discussing safety and environmental compliance issues. AWD will allow the BLM on-site Compliance Monitoring Team to participate in daily construction and safety briefings to facilitate communication. AWD may request BLM's and any other agency's monitors to participate in the meeting to help resolve any issue that may have arisen during the

previous period. Alternatively, AWD or BLM ECM(s) may recommend a separate meeting to discuss mitigation, potential variances, or other project-related issues.

In addition to the progress meetings conducted at the field level, the AWD CL, AWD CM, AWD EIs, BLM ECMs, BLM PM, and/or other jurisdictional agencies may participate in a regular teleconference call (see Section 5.3, Weekly Updates). The teleconference calls would be similar to the progress meeting; however, the conference calls would focus on the mitigation monitoring.

## **4.2 Communication Protocol during Construction**

The following protocols have been formulated to ensure timely and accurate information is disseminated to all parties involved in the construction process of the AEWP, facilitating a responsive, solution-oriented work environment:

- The BLM Compliance Monitoring Team will adhere to a mutually agreed-upon communication protocol between AWD and BLM while on site; the AWD protocol will not interfere or inhibit the ECM's ability to communicate transparently with BLM.
- In general, the BLM ECMs' primary point of contact on site will be the AWD EIs. If issues can't be resolved at the ECM/AWD EI level, they will be initially elevated to CM and BLM PM via email or phone, whichever is determined to be applicable/appropriate to the situation.
- AWD will inform the BLM ECM of all survey and construction activity on a daily basis, including, but not limited to, location of such activities and AWD personnel mobilization associated with such activities. This will help facilitate timely and appropriate dispersion of BLM ECMs based on activity level.
- The BLM ECMs and any other designated agency representatives or staff may converse with any and all personnel on the construction site to ask questions about their activity, but the construction personnel may opt to refer him/her to the appropriate AWD official for an answer. If the question relates to a potential resource-threatening non-compliance issue, the BLM ECM will immediately notify the AWD EI, and jointly discuss the issue with the construction personnel on site.
- AWD personnel will not, under any condition, direct the work of a BLM ECM. If concerns about an ECM arise, the CM will be notified immediately.
- AWD will provide a list of all EIs or resource monitors on site, their titles/responsibilities, and their contact information. Updated distributions will be utilized to keep all parties informed of monitor and staff additions/changes. This list of personnel and all subsequent updates shall be distributed to all persons on the list throughout the construction process.

## **Communication Specific to Non-compliance**

There are varying levels of severity with respect to non-compliant events. The communication protocols identified below have been formulated for non-severe non-compliance events. Severe non-compliance events specific to BLM's scope of authority, such as "take" or discovery of human remains during construction on the project, have established protocols within approved documents such as the BO, HPTP, NAGPRA, and their appendices. Regardless, the BLM and CM will be immediately notified by AWD or the Compliance Monitoring Team if such event occurs and appropriate communication channels will be initiated.

**Step 1.** BLM ECM notifies AWD EI of the suspected non-compliance issue. The issue and communication is documented on the daily form.

**Step 2.** The BLM ECM will notify the CM. AWD will notify agencies directly if the non-compliance issue relates to a permit condition issued by those agencies. The non-compliance activity and communication efforts are noted on a consolidated tracking sheet for non-compliance incidents.

**Step 3.** AWD acknowledges the non-compliance issue and provides a response plan for corrective action to BLM and the Compliance Team. AWD will track the corrective actions and report completion status.

**Step 4.** The BLM AO or PM may inform other interested parties (e.g., permitting agencies) if non-compliance actions relate to their jurisdictional authority or recognized interests.

As previously discussed in Section 2, the ECCMP protocols do not limit the authority of the BLM to administer ROWs on public lands pursuant to 43 CFR 2800 and may issue relevant notices to the holder if non-compliant activities would warrant such notices.

### **4.3 Coordination with Other Agencies**

As identified in Section 2, several local, state, and federal agencies have jurisdiction over portions of the project. The BLM, as the lead agency, is responsible for ensuring that mitigation measures reviewed and approved by the BLM during the NEPA process are implemented throughout construction. Other jurisdictional agencies are required to ensure compliance with their respective measures under their jurisdiction and may visit the project site from time to time and request information regarding the status of a mitigation measure.

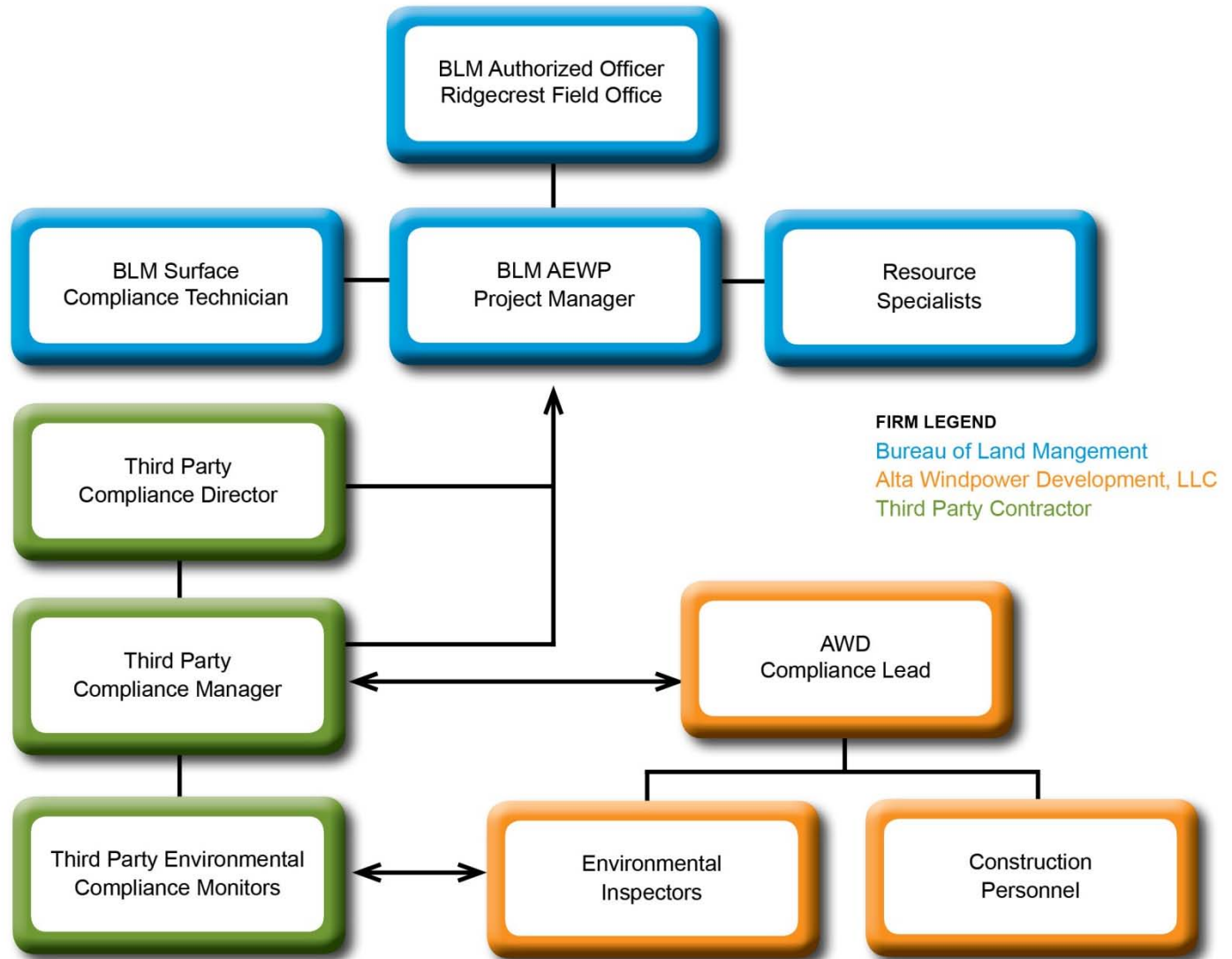
AWD will be responsible for satisfying requests from jurisdictional agencies and will notify and copy the BLM on all correspondences related to final approvals and verifications for the project if not otherwise copied on the correspondence.

The BLM CM and AWD CL will include other agencies, such as USFWS or CDFW in the monitoring and documenting of environmental compliance to the extent requested by those agencies and



authorized by the BLM; however, the primary point of contact regarding these requirements for the BLM CM will continue to be the BLM AO or designee.

FIGURE 1  
Organization Chart



## **5.0 REPORTING AND DOCUMENTATION**

### **5.1 Notices to Proceed**

As stipulated in approval and authorization documents, project-related construction activities will not begin until certain pre-construction mitigation measures and submittals have been satisfied. AWD shall submit comprehensive documentation proving satisfaction of pre-construction requirements to the CM and BLM prior to BLM issuing an NTP for project construction. In the event BLM elects to issue multiple NTPs for the project, this same documentation will be required prior to each NTP issuance. Additionally, the NTP may include applicable conditions or requirements that must be satisfied prior to the start of work or during construction. BLM will further refine “comprehensive documentation” during the pre-construction meeting in collaboration with AWD, agencies, and the BLM Compliance Monitoring Team. This could include, but is not limited to:

- A further refined description of the activities, duration of activities, and the sequential phase during which the activities will occur (schedule)
- Detailed maps, photos, and/or other supporting documents or geographic information system (GIS) data not already included as part of the POD package
- Verification that all mitigation measures have been met or do not apply to the work covered by the NTP
- Verification that all applicable jurisdictional permits or agency approvals have been obtained
- Verification of agency approval of specific biological monitors.

### **5.2 Daily Reporting**

#### **AWD EI**

AWD will compile all daily site observation forms (which could include biological or general-focused reports) completed by AWD EIs and distribute them to BLM, the BLM Compliance Monitoring Team, and the AWD team via a mutually agreed-upon methodology (e.g., email or password-protected project website) at the completion of daily construction activities. The daily forms will identify, but will not be limited to, the type of construction activities occurring, compliance levels, and communication between all parties on site regarding the status of environmental compliance. If archaeology-focused reports are required, BLM may request a specific password-protected site be established for this process.

#### **ECM**

The ECM will provide a daily site observation form to the CM at the completion of daily site observations. The ECM report will identify compliance levels (see Section 6.0, Compliance Reporting During Construction) with environmental mitigation measures and communications provided to any AWD representative and/or agency representative. Based on the ECM daily

report compliance levels, the CM may distribute to the BLM PM and/or discuss issues/concerns via email or phone.

### **5.3 Weekly Updates**

#### **Weekly Meetings**

It is anticipated at this time that BLM will hold bi-weekly calls between AWD personnel, the CM and ECMs, and other agencies as invited to disseminate critical information, discuss issues, and address other matters regarding the project's progress and compliance status. Weekly agendas and minutes will be distributed to capture the discussions and follow-up items.

#### **Weekly Progress Reports**

The BLM CM will submit an AO's Weekly Report. The AO's Weekly Report will be made available via a methodology determined by the AO. The AO's Weekly Report will include, but will not be limited to, descriptions of activities relating to site mobilization, temporizing staging, construction, implementing (or not implementing) mitigation, and digital photos.

### **5.4 Final Report**

AWD will provide all final documentation to the BLM in a compiled report, including all finalized mitigation plans (inclusive of revisions), regular EI and monitor reports required by ROW stipulations, and administrative record emails regarding issue resolution. This may be submitted to BLM directly or via the project's password-protected site.

The CM will provide all final documentation to BLM regarding Weekly Reports, meeting minutes, Variance requests, and administrative record emails regarding issue resolution.

Prior to the AEWP's Operation and Maintenance Phase, the BLM may elect to have a final closeout meeting to discuss the construction process of the AEWP project, recommendations, and lessons learned in an effort to ensure the future betterment of the overall agency compliance process.

## **6.0 COMPLIANCE REPORTING DURING CONSTRUCTION**

The BLM ECMs will perform compliance inspection throughout the construction period to ensure compliance with all applicable mitigation measures, plans, permits, and conditions of approval. Supplemental information provided by AWD, including pre-construction submittals, survey reports, weekly reports, meeting notes, and agency correspondences, will also be used to verify compliance.

The BLM ECMs will document observations along the ROW through the use of field notes and digital photography. The photos will be provided in the weekly reports and correlate to a discussion of specific construction or compliance activity. In addition, standardized field inspection forms will be utilized in the field to document compliance of specific crews, construction activities, or resource protection measures. A sample site inspection form has been included in Attachment A, but may be modified to accommodate site-specific issues as identified throughout the construction process.

### **6.1 Compliance Levels**

The BLM ECM and AWD EI shall document all observations and communications in daily site observation forms and will determine whether the observed construction activities are consistent with mitigation measures, mitigation plans, ROW stipulations, conditions outlined in the NTP and the POD, and applicable permits. The activities will be assigned a compliance level, which include: Acceptable, Problem Area, and Non-compliance.

#### **Acceptable**

An “Acceptable” compliance level will be assigned to an activity when an inspected area or activity complies with the project specifications, and all mitigation measures have been adequately implemented. No corrective action is necessary.

#### **Problem Area**

A “Problem Area” compliance level will be assigned when an activity does not meet the definition of acceptable but is not considered non-compliance. This level indicates that a minor deviation from an approved activity or condition has occurred and action is being addressed in the field to immediately remedy the situation. ECMs and EIs confirm that no resources are being impacted and no potential for resource damage exists. If a minor deviation is not corrected in a timely fashion, it could become a cumulative issue and result in Non-compliance status.

The problem area category will be used to report a range of events and observations including the following:

- An unforeseeable action that occurs not in conformance with, but not in violation of, certain specifications, and the applicant’s response is appropriate and timely (e.g., a fuel drip from heavy equipment where project personnel respond properly by stopping,

containing, and cleaning up the spill in accordance with the required Storm Water Pollution Prevention Plan (SWPPP).

- A location where the project is not out of compliance with the specifications but, in the judgment of the BLM ECM and/or AWD EI, damage to resources could occur if corrective actions are not taken (e.g., an improperly constructed/located erosion control structure; trash that scatters on the project site and could migrate to surrounding public lands if not collected and disposed of).

If a problem area is resolved in a timely manner, it is not likely to be considered non-compliant. If a problem area is found to be a repeat situation or multiple instances of a similar nature occur, is not corrected within the established time frame, or results in resource damage because timely corrective action failed to occur, the BLM ECM and/or AWD EI may document the problem area as a Non-compliance as described in the following section.

### **Non-compliance**

A “Non-compliance” level will be assigned to an activity when the activity results in damage to resources, places sensitive resources at unnecessary risk, or is a repeated scenario of actions noted as “Problem Areas.” Non-compliance may also include deficient or non-existent implementation of mitigation measures/stipulations, ultimately having the potential to result in irreversible environmental damage; this can include not implementing mitigation measures in accordance with stipulated timing restrictions.

Examples of non-compliances include, but are not limited to:

- Use of new access roads, staging areas, or extra workspaces not identified on the project drawings, approved for use during construction, and/or outside of the permanent or temporary ROW boundary
- Heavy equipment or truck encroachment into a designated avoidance area (environmentally or culturally sensitive area)
- Grading, foundation, or turbine erection work without a biological monitor on site, if presence is required per stipulations
- Failure of erosion or sediment control structures if it puts a sensitive resource at risk
- Discharge of sediment-laden trench or foundation hole water into a jurisdictional waterbody
- Clearing vegetation outside the approved work limits
- Gross negligence in vegetation salvage as defined in restoration and revegetation plans
- Construction activity in locations where seasonal restrictions exist (e.g., lambing areas, nesting areas, migration corridors).

Protocols for communication for suspected or confirmed Non-compliance Activities are identified in Section 4.2, "Communication Protocol during Construction."

All non-compliance activities will be consolidated into one tracking sheet by ECM and will be made available via the password-protected website in a time frame determined appropriate by the AO. Similarly, the CM will include non-compliance incidents on the weekly report.

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## **7.0 RECORDS MANAGEMENT**

### **7.1 Agency Records during Monitoring (Non-public Website)**

The third-party contractor will develop a password-protected website for use by lead and responsible agencies during pre-construction and construction to facilitate the sharing of project documents, files, reports, and maps. The non-public, password-protected project website will host the pre-construction mitigation plans, daily reporting forms, weekly monitoring reports, non-compliance tracking spreadsheet, and documentation relevant to the submittal and approval of variance requests. The BLM and CM representatives will have access to the entire website. Access levels and privileges for other team members and/or outside permitting agencies will be determined by the BLM and the CM.

### **7.2 Public Website**

In order to facilitate public awareness about the AEWP, BLM's CM will establish and maintain a website for the AEWP. This may be hosted by the third-party compliance team, or may be hosted by the BLM (to be determined by the AO). Documentation of the construction monitoring process may include, but would not be limited to the ECCMP; links to the BLM website containing the FEIS, ROD, and ROW grant; NTP (s); Variances; maps and photos; project schedule; and links to other publicly available permits issued by other agencies. If determined appropriate by the BLM, the public website will also include a project hotline where interested parties can contact the BLM regarding project concerns throughout construction.



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## **8.0 VARIANCES**

During construction, unforeseen or unavoidable site conditions could result in the need for changes from the approved mitigation measures and construction procedures. Additionally, the need for extra workspace, or changes to previously approved construction work areas may arise. Changes to previously approved mitigation measures, construction procedures, and construction work areas will be handled in the form of variance requests to be submitted by the applicant and reviewed and approved or denied by the BLM, with the delegation of some authority for variances to the CM. The variance process can also be a good mechanism to clarify discrepancies or inconsistencies discovered in project materials and/or to distribute information to the entire project team.

A system of three variance levels (Levels 1, 2, and 3) will be used to categorize and process variance requests. The three variance levels, the review and distribution process, and the decision-making authority proposed for each level are discussed in the following sections. A sample Variance Request Form is provided in Attachment D.

### **8.1 Level 1 Variances (Field Decisions)**

Level 1 Variances are site-specific, minor, performance-based changes to project specifications, or construction methods that provide equal or better protection to environmental resources or better constructability. These minor variance requests can be reviewed and either approved or denied by the ECM in the field during normal construction operations.

Examples of Level 1 Variance requests include the following:

- Minor variations in site-specific plans that reflect differences in site conditions from those that were expected when the plan was developed (e.g., relocation of a spoil storage area within previously approved work areas)
- Minor changes to the project design necessitated by site-specific restrictions.

To initiate a Level 1 Variance request, an AWD representative will fill out a Variance Request Form using the form in Attachment D and obtain the appropriate signatures. The AWD representative will then contact the BLM ECM on site to review the proposed change. If determined necessary, the BLM ECM may request to confer with the CM or relevant BLM Compliance Team members prior to signature.

The ECM will document the variance approval and will provide the fully executed form to the BLM PM and CM, and will post it on the project's internal password-protected website.

If the requested variance exceeds the lead ECM's authority level, the lead ECM will inform the AWD's representative that a Level 2 or Level 3 Variance request is required.

## **8.2 Level 2 Variances**

A Level 2 Variance request exceeds the field decision authority of the BLM ECM and requires processing by the CM and concurrence from the BLM. Level 2 Variance requests generally involve project changes that would affect an area outside the previously authorized limits of disturbance, but within the areas previously surveyed for cultural resources, and biological resources. Level 2 Variance requests typically require the review of supplemental documents, correspondence, and records. These reviews may constitute preparation of a Documentation of NEPA Adequacy Worksheet, at the discretion of BLM.

Examples of Level 2 Variance requests may include, but are not limited to, the following:

- The use of extra workspace outside the previously approved disturbance limits but within previously surveyed areas and ROW limits in support of the EIS
- The use of existing access roads that have not been previously approved as part of the ROW grant

To initiate a Level 2 Variance request, the AWD representative or other designated representative will fill out a Variance Request Form, prepare the appropriate supporting documentation, and obtain the required signatures from AWD personnel.

The AWD representative will complete and submit the Variance Request Form and supporting documentation to the CM. The CM will consult with the BLM on the appropriate level of NEPA documentation required for processing the variance.

If the Level 2 Variance request is approved by the BLM, the BLM PM will sign the variance request and e-mail the approved form (scanned copy) to the CM, AWD representatives, and the BLM ECMs. The variance may be implemented in the field as soon as the approved variance is received. The CM will document the variance approval and post it on the non-public and public project websites.

## **8.3 Level 3 Variances**

Level 3 Variance requests generally involve project changes that would affect an area outside the previously approved work area that is outside the areas previously surveyed for cultural resources, sensitive species, and biological resources, or one that would change the function, structure, technology required, or other part of the project previously approved in the ROD. Level 3 Variances may need to be implemented through an amendment to the ROW grant.

To initiate a Level 3 Variance request, an AWD representative fills out a Variance Request Form, prepares the appropriate supporting documentation, and obtains the required signatures from the AWD personnel. This will be submitted via email (scanned copy) or fax to the CM, who will submit the request to BLM. Level 3 Variance request approvals must be signed by the BLM PM. The variance may be implemented in the field as soon as the approved variance is received. The

CM will document the variance approval and post the approved Variance Request Form on the project website.

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## **9.0 WORKERS ENVIRONMENTAL AWARENESS PROGRAM TRAINING**

As specified in the environmental measures identified in the FEIS, prior to project initiation, AWD shall develop and implement a WEAP. WEAP training will be provided to all construction personnel prior to completing any work activities.

The CM, BLM PM, and BLM AO will be provided the opportunity to participate in the WEAP training to present an overview of the ECCMP and to become familiar with the ROW holder's environmental documentation and reporting program and personnel. The CM or the BLM PM will explain the various components of the ECCMP, emphasizing the objectives of the ECCMP.

The WEAP training shall be provided in both English and Spanish (if requested) to ensure the workers are fully aware of the environmental measures to be implemented during construction activities. The initial WEAP training will be conducted by the BLM-permitted archeologist, tribal sensitivity trainer, and BLM-approved biologist. The WEAP training, at a minimum, shall include the following:

- An overview of the ECCMP and the associated reporting protocols, roles, and responsibilities
- An explanation of the function of flagging that designates authorized work areas
- An explanation of the sensitivity of the vegetation communities and special-status plant species within and adjacent to work areas
- The importance of avoiding the introduction of invasive weeds onto the site and surrounding areas
- An explanation of the sensitive wildlife that could be present on site and measures required to minimize impacts (e.g., reduced speed limit and reporting)
- An explanation of spill cleanup procedures and measures being implemented to minimize impacts to water quality
- Waste management and the importance of maintaining good housekeeping practices
- Fire prevention measures and points of contact and steps to be implemented in the event a fire occurs
- Tribal cultural resource sensitivity training, an overview of sensitive archaeological resources present on site, and measures to be implemented in order to ensure resources are not impacted during construction activities.
- Communication and reporting protocol as to what needs to be implemented when a sensitive resource may have been impacted during operations and maintenance activities.

Sign-in sheets shall be provided to the CM and posted on the non-public project website following completion of WEAP training (see Attachment C for a sign-in sheet). All WEAP attendees shall be provided with wallet-sized cards summarizing the information presented during the WEAP training, and a hardhat sticker should be provided indicating the worker has attended the WEAP training.

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## 10.0 MITIGATION MONITORING PROGRAM TABLE

Appendix 4 lists the mitigation measures included in the FEIS and adopted in the BLM ROD dated April XX, 2013. The Mitigation Monitoring Program table is the core document for environmental requirements on the project and will be the primary guideline for determining compliance with the ECCMP. A copy of the table should be kept on site, and all supervisory staff working on the project should be familiar with its contents.

### 10.1 Effectiveness/Implementation Review

While development, review, and approval of pre-construction mitigation plans is a best attempt at due diligence with respect to ensuring intent of mitigation measures are successfully met, it is possible that some mitigation strategies, once implemented on the ground, may prove infeasible, impractical, or unsuccessful. To reduce the likelihood of this scenario, the BLM may conduct an on-the-ground assessment of implementation activities designed to meet mitigation measures, and provide adaptive strategies through collaboration with the CM, BLM ECMs, AWD, and other regulatory agencies as appropriate to ensure successful implementation. To further reduce the likelihood of unsuccessful implementation of mitigation strategies, BLM may request as-needed meetings with the CM, ECMs, AWD, and other regulatory agencies prior to on-the-ground implementation. Additionally, BLM may coordinate milestone site visits to view the progress of implementation to ensure collective visions come to fruition.



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## **11.0 AEWOP OPERATIONS**

The ECCMP has been prepared to document and ensure compliance during the construction phase. Mitigation measures and stipulations of the ROW grant require AWD to implement long-term mitigation activities for the life of the ROW grant beyond the construction phase. The AO, at his or her discretion, may determine that the long-term implementation of mitigation as required of the ROW holder may necessitate engaging a third party to assist in tracking and monitoring these mitigation efforts on behalf of BLM. If such determination is made, a separate compliance and reporting plan will be devised between the BLM and the ROW holder to ensure successful implementation of mitigation measures applicable to ongoing project operational activities for the life of the ROW grant. This plan would include at a minimum, the following provisions:

- A Compliance Manager (CM) representing the holder, in the role of ensuring compliance with the plan
- Adaptive management procedures to address change in conditions, regulations, etc.
- Means of accurately tracking compliance (e.g., compliance tracking database)
- Coordination with BLM and other agencies to report noncompliance issues
- Initial training and refresher training of personnel, commensurate with their roles and responsibilities
- Inspection and monitoring procedures
- Reporting and recordkeeping procedures
- Measures to address decommissioning of the project at partial and final closure.

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# ATTACHMENT A

## DAILY SITE OBSERVATION FORM

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**PROJECT: ALTA EAST WIND PROJECT**  
**ENVIRONMENTAL MONITORING DAILY SITE OBSERVATION FORM**

Report Number: \_\_\_\_\_ Date of Report: \_\_\_\_\_

Construction Monitor/Designated Biologist: \_\_\_\_\_

**Compliance Level :**    ☐ Communication                      ☐ Non-compliance  
                                  ☐ Acceptable  
                                  ☐ Problem Area

Location: \_\_\_\_\_

**SITE INSPECTION CHECKLIST**

<b>Air Quality</b>	<b>Yes</b>	<b>No</b>
Is dust control being implemented (i.e., access roads watered, haul trucks covered, streets cleaned on a regular basis)?		
Do vehicles or equipment appear to be idling unnecessarily?		
<b>Biology</b>	<b>Yes</b>	<b>No</b>
Are appropriate measures in place to protect sensitive habitat (i.e., flagging, signage, exclusion fencing, biological monitor)?		
Are all activities being conducted within the approved work limits?		
Have impacts occurred to adjacent habitat (sensitive or non-sensitive)?		
<b>Cultural and Paleontological Resources</b>	<b>Yes</b>	<b>No</b>
Are known cultural resources clearly marked for exclusion?		
Is a cultural monitor on site if grading is occurring near known cultural sites?		
Is a paleontological monitor on site if grading is occurring (see mitigation measure for specifications)?		
<b>Hazardous Materials</b>	<b>Yes</b>	<b>No</b>
Have all spills been cleaned-up in accordance with the project's SPCC?		
Are fuels, oils, lubricants, and other hazardous materials on site labeled and stored in appropriate containers?		
<b>Water Quality</b>	<b>Yes</b>	<b>No</b>
Have temporary erosion and sediment control measures been installed?		
Are BMPs in good condition and functional?		
Is mud tracked onto roadways cleaned-up in accordance with the project's SWPPP?		

**DESCRIPTION OF OBSERVED ACTIVITY**

**ISSUES REQUIRING CORRECTIVE ACTION**

<b>Issue Requiring Corrective Action</b>	<b>Applicant Notification</b>	<b>Corrective Actions Implemented by Applicant</b>

**Photos:**

[illegible]

**Completed by:**

Name: \_\_\_\_\_  
Affiliation: \_\_\_\_\_  
Date: \_\_\_\_\_

**Distribution:**

**ATTACHMENT B**  
**BLM AUTHORIZED OFFICER WEEKLY REPORT**

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## BLM Authorized Officer Weekly Report

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Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Website: \_\_\_\_\_  
City, State Zip \_\_\_\_\_ Fax: \_\_\_\_\_

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**Project:** Alta East Wind Project

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### Weekly Project Update

**Prepared By:**

**Reporting Period:**

**Summary:**

**Site Inspections/Mitigation Monitoring:**

- Issues/Concerns with Applicable Conditions of Certification

**Construction Activities:**

**Compliance:**

**Construction Schedule:**

- Scheduled Activities for Next Week
- Potential Delays to the Online Date of the Project

**Notice to Proceed**

<b>NTP No.</b>	<b>Date Issued</b>	<b>Project Component</b>	<b>Conditions Included (Y/N)</b>

**Variance Requests**

<b>Variance Request No.</b>	<b>Variance Level</b>	<b>Submitted</b>	<b>Description</b>	<b>Status</b>	<b>Approval Date</b>



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**ATTACHMENT C**  
**CERTIFICATION OF COMPLETION OF WORKER**  
**ENVIRONMENTAL AWARENESS PROGRAM**

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## Certification of Completion

### Worker Environmental Awareness Program

This is to certify these individuals have completed a mandatory Worker Environmental Awareness Program (WEAP). The WEAP includes pertinent information on cultural, paleontological, and biological resources for all personnel (that is, construction supervisors, crews, and plant operators) working on site or at related facilities. By signing below, the participant indicates that he/she understands and shall abide by the guidelines set forth in the program materials.

No.	Employee	Title/Company	Signature	Sticker #
1.				
2.				
3.				
4.				
5.				
6.				
7.				
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21.				
22.				
23.				
24.				
25.				

Cultural Trainer: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Paleo Trainer: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Biological Trainer: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_




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# ATTACHMENT D

## VARIANCE REQUEST FORM

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<b>Variance Request Form</b>			
	Development LLC 1095 Avenue of the Americas New York, NY 1003	Variance: __XX__ Request No.: __Rev 0__ Date Submit: __XXXX__ Date Approval Needed: __XX__ Date Agency Received: _____ Agency Approval Reference No.: _____	
Request Prepared by: XXX Spread/ Location: XXX (Milepost): _____ Alignment Sheet/Sta. No.: _____ Landowner: BLM		Tract No: _____ Net acreage affected: XXX acre In or within 50 feet of a wetland: <input type="checkbox"/> Yes <input type="checkbox"/> No Within 50 feet of a water body: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Current Land Use/ Vegetative Cover: Nearby Features (Water body, T&E Habitat, Wetland, Noxious Weed): Area, Residence, Cultural Resource Site (distance, etc.): Variance Level: <input type="checkbox"/> Level 1 <input type="checkbox"/> Level 2 <input type="checkbox"/> Level 3 <b>(To Be Assigned by Designated Representative)</b> Variance From: <input type="checkbox"/> Permit <input type="checkbox"/> Plan/Procedure <input type="checkbox"/> Specification <input type="checkbox"/> Drawing <input type="checkbox"/> Mitigation Measure <input type="checkbox"/> Other:			
<b>Detailed Description of Variance:</b> Attachments?    Yes <input type="checkbox"/> No <input type="checkbox"/> Photos?    Yes <input type="checkbox"/> No <input type="checkbox"/>			
<b>Variance Justification:</b>			
<b>For (Company Name) Use Only</b>			
Additional Surveys Required Cultural Survey <input type="checkbox"/> Yes <input type="checkbox"/> No T&E Survey <input type="checkbox"/> Yes <input type="checkbox"/> No Reporting Document Survey:	Surveyed Corridor Description		Additional Surveys Completed <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
Sign-off (as appropriate)	Name (print)	Approval Signature	Conditions (See Attached)
Contractor Sup't. or Env. Coordinator Lead Environmental Inspector Spread Supervisor Environmental Field Manager			<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>For BLM Project Manager or Compliance Contact Use Only</b>			
Variance Approved: <input type="checkbox"/> Variance Denied: <input type="checkbox"/> Date: _____ Signature: _____			

<b>For Compliance Manager and Monitor Use Only</b>		
Variance Approved:	Variance Denied	Date:
Signature:		
Stipulations		
Spread:	OPPC Variance Request No.:	
<b>VARIANCE CONDITIONS</b>		
Name:	Title:	Organization:
Name:	Title:	Organization:

# ATTACHMENT E MITIGATION AND MONITORING REPORTING PROGRAM

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Please see Appendix 4 to the Record of Decision

